**HONOURABLE SHRI JUSTICE R.SUBHASH REDDY**

**WRIT PETITION No. 9852 OF 2006**

**Dated 11th August, 2006**

Between:
Miss K.Vinimayee

… Petitioner

And

The Registrar, Andhra University, Waltair,
A.U. campus, Visakhapatnam and others.

… Respondents.

**ORAL ORDER:**

This writ petition is filed seeking issuance of a writ of mandamus to declare the action of the respondents in not allowing the petitioner to write the first year university examination pursuant to letter dated 1.5.2006 as illegal and arbitrary.

The petitioner was admitted to engineering course in the 3rd respondent-college during the academic year 2005-06. It is the case of the petitioner that though the petitioner has attended maximum number of classes, but, however, respondents had not noted her attendance correctly and not allowed the petitioner to write the first year examinations.

In the counter-affidavit filed on behalf of the respondents, it is stated that the classes were commenced as per the academic calendar notified by the university and, in the case of the petitioner, she has attended only 622 classes out of 959 classes. As such, she had an attendance of 64.9%, which is below the minimum condonable limit. It is further stated that shortage of attendance can be condoned on medical grounds.

It is submitted by the learned counsel for the petitioner that as much as the petitioner had attendance of 64.9%, the same has to be construed as 65% by rounding 0.9% to 1%. In support of his submission, learned counsel for the petitioner placed reliance on a decision of the Supreme Court in **State of U.P. v. Pawan Kumar Tiwari**[1] and on a decision of this court in **B.Prashanthi v. N.T.R. University of Health Sciences, Vijayawada**[2].

As per the academic regulations framed by the University, 75% of minimum attendance is required to permit any student to write the examinations. However, there is a provision to condone the shortage of attendance between 66% and 75% on medical grounds by accepting the condonation fees of Rs.500/-. From the academic regulations, it is very clear that the shortage of attendance can be condoned provided the students puts the minimum attendance of 65% and condonation is permissible from 66 to 75%, on payment of Rs.500/- towards condonation fees. In **State of U.P. v. Pawan Kumar Tiwari (1 supra),** relied on by the learned counsel for the petitioner, the Supreme Court while dealing with application of prescribed percentage to general and reserved categories for the purpose of appointment, held that fraction of one-half or more should be treated as one and if it is less than one-half, it should be ignored. Same is the finding in the decision in **B.Prashanthi v. N.T.R. University of Health Sciences, Vijayawada ( 2 supra).** The ratio laid down in both the above judgments cannot be made applicable to the case on hand having regard to the facts of this case, as, having regard to the classes attended by the petitioner, a definite percentage can be arrived at in the instant case, whereas the same is not possible in case of division of vacancies.

Though it is submitted by the learned counsel for the petitioner that the attendance particulars have not been correctly noted, but the said submission is without any substance. There is no reason for the respondents for not recording the correct attendance. Even with regard to the claim of the petitioner that the course has not been conducted as per the academic calendar, the same is well explained in the counter-affidavit that classes were commenced as per the academic calendar notified by the university.

It has been well settled that the power of judicial review

cannot be exercised by extending the relief contrary to the academic regulations. The regulations are framed to maintain discipline with regard to attendance of the students in various courses and the petitioner who has failed to put in minimum attendance cannot seek directions to permit her to write the examination.

In that view of the matter, I do not find any merit in this writ petition. The writ petition is devoid of any merit and the same is accordingly dismissed. No costs.

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11.8.2006

**(R.SUBHASH REDDY, J.)**

**VR**

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[1] (2005) 2 SCC 10

[2] W.P.No.1543/2001, dated 27.3.2001